

REMARKS

Reconsideration of this application in light of the of the Response filed June 23, 2009, and the following remarks is respectfully requested.

Claims 1-12 and 15-18 are pending in this application, with claims 11-12 being withdrawn from consideration. Claims 13-14 were canceled by prior amendment without prejudice or disclaimer of the subject matter recited therein.

Applicants appreciatively acknowledge the courtesy and effort extended by the Examiner to their representative in a August 25, 2009 telephone call. During the telephone call, the Examiner informed the Applicants' representative that the Terminal Disclaimer filed on June 23, 2009 was defective for not clearly setting forth the ownership interest percentage in the present application.

Applicants would like to point out that the present application and U.S. Patent No. 7,466,489 were, at the time of the present invention, 100% owned by Carl Zeiss SMT AG or subject to an obligation of assignment to Carl Zeiss SMT AG.

Accordingly, the present Supplemental Response is being submitted accompanied by a Terminal Disclaimer disclaiming that portion of any patent issuing from the present application that would exceed the enforceable period of the commonly owned U.S. Patent No. 7,466,489. The present Terminal Disclaimer recites that Carl Zeiss SMT AG is a 100% owner in the present application

Reconsideration and withdrawal of the non-statutory double patenting rejection of claims 1-3, 5-8, 10 and 15-18 based on U.S. Patent No. 7,466,489 is respectfully requested.

CONCLUSION

In view of the foregoing it is believed that remaining claims 1-10 and 15-18 are in condition for allowance and it is respectfully requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue.

If there are any other issues remaining which the Examiner believes could be resolved through a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

A Terminal Disclaimer fee accompanied the June 23, 2009 response. Accordingly, Applicants submit that a Terminal Disclaimer fee is not required for the present Supplemental Response. However, the Commissioner is hereby authorized to charge any unpaid fees deemed required in connection with this submission, or to credit any overpayment, to Deposit Account No. 04-0100.

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Respectfully submitted,

By 

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